

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

DARYLE PHINNESSEE,

Plaintiff,

v.

No. 10-1020-JDB

UNITED STATES DRUG ENFORCEMENT
AGENCY,

Defendant.

REPORT AND RECOMMENDATION

This matter is on referral to the Magistrate Judge for determination and/or report and recommendation regarding Plaintiff's motion for a temporary stay of administrative order [D.E.3,4].

A hearing was held on April 23, 2010 with Plaintiff's attorney Javier M. Bailey and Assistant United States Attorney Christopher Cotten both present by telephone. Based upon the facts of this matter, the parties agreed this motion is moot. AUSA Cotten further agreed to accept service of this complaint on behalf of the United States and to not contest personal jurisdiction. However, the United States reserved the right to challenge subject matter jurisdiction.

Accordingly, the Magistrate Judge recommends that Plaintiff's motion be dismissed.

Respectfully submitted this the 23st day of April, 2010,

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.